

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JOSEPH GREGORIO, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

PREMIER NUTRITION CORPORATION,

Defendant.

Civil Action No. 1:17-cv-05987-AT

**NOTICE OF MOTION FOR PRELIMINARY APPROVAL OF  
FIRST AMENDED CLASS ACTION SETTLEMENT**

**TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

**PLEASE TAKE NOTICE** that upon: (1) the accompanying Memorandum of Law; (2) the Declaration of Philip L. Fraietta, and the exhibits attached thereto (including the Parties' First Amended Class Action Settlement Agreement and the exhibits thereto); and (3) the Declaration of Hanny Kanafani, Plaintiff Joseph Gregorio, through his undersigned attorneys, will move this Court, before the Honorable Analisa Torres, United States District Court Judge, Southern District of New York, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York, for an Order, pursuant to Federal Rule of Civil Procedure 23(e): (i) granting preliminary approval of the First Amended Class Action Settlement; (ii) provisionally certifying the Settlement Class under Federal Rule of Civil Procedure 23(b)(3) in connection with the settlement process; (iii) appointing Bursor & Fisher, P.A. and Barbat, Mansour & Suicu PLLC as Class Counsel; (iv) appointing Joseph Gregorio as the Class Representative for the Settlement Class; (v) approving the Media Plan for the First Amended Class Action Settlement described in the First Amended Class Action Settlement Agreement and its Exhibits, as well as the specific Notice of Class Action and Proposed Settlement (the

“Proposed Notice”), attached as Exhibits B-F to the First Amended Class Action Settlement Agreement, and directing distribution of the Proposed Notice; and (vi) granting such other, further, or different relief as the court deems just and proper.

\* \* \*

A Proposed Preliminary Approval Order is submitted herewith.

Dated: September 13, 2018

Respectfully submitted,

By: /s/ Philip L. Fraietta  
Philip L. Fraietta

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